GOVERNMENT OF KERALA
1964

REGISTERED No. K. 107.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. IX] **Trivandrum,** Monday, 29th June 1964 / 8th Ashada 1886 [No. 39

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 6080|63|D2|Law.

Dated, Trivandrum, 29th June, 1964
8th Ashada, 1886.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 20th day of June, 1964.

By order of the Governor,
P. UNNIKRISHNA KURUP,
Law Secretary.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS,
TRIVANDRUM 1964.

ACT 17 OF 1964

THE KERALA LAND DEVELOPMENT ACT, 1964.

An Act to unify and amend the law relating to the preparation and execution of Land Development Schemes including Schemes for the conservation and development of soil resources, the control and prevention of soil erosion and the reclamation of waste lands in the State of Kerala.

Preamble.—WHEREAS it is expedient to unify and amend the law relating to the preparation and execution of land development schemes including schemes for the conservation and development of soil resources, the control and prevention of soil erosion and the reclamation of waste lands, in the State of Kerala.

BE it enacted in the Fifteenth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Land Development Act, 1964.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Board" means the Kerala Land Development Board constituted under section 3;

(b) "Collector" means the Collector of the district and includes any Officer not below the rank of a Tahsildar appointed by the Government to perform all or any of the functions of a Collector under this Act;

(c) "District Committee" means the District Land Development Committee constituted under section 6;

(d) "Executing Officer" means an Officer appointed under section 13 to execute a scheme;

(e) "Inquiring Officer" means an Officer appointed as such by the District Committee;

(f) "owner" means any person for the time being receiving or entitled to receive, whether on his own account, or as agent, trustee, guardian, manager or receiver for another

person, the rent or profit derivable from land and includes a tenant, an occupant or mortgagee in possession of land;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "record of rights" means the record of rights and liabilities prepared under section 20;

(i) "scheme" means any Land Development Scheme prepared or to be prepared under this Act;

(j) "work" means any work of public utility constructed, erected or carried out or to be constructed, erected or carried out under any scheme under this Act.

3. *Constitution of the Board.*—(1) The Government shall for the purpose of carrying out the provisions of this Act constitute a Land Development Board.

(2) The Board shall consist of—

(a) the Member, Board of Revenue, in charge of Land Revenue, who shall be the Chairman, ex-officio;

(b) the Chairman, Kerala State Electricity Board, ex-officio;

(c) the Chief Engineer in charge of Irrigation, ex-officio;

(d) the Chief Conservator of Forests, ex-officio;

(e) the Director of Soil Conservation, ex-officio; and

(f) four non-officials to be nominated by the Government.

(3) The Director of Soil Conservation shall be the Secretary to the Board.

(4) The term of office of the members referred to in clause (f) of sub-section (2) shall be three years:

Provided that the term of office of a member nominated to fill a casual vacancy shall be for the remainder of his predecessor's term of office.

(5) A non-official member may, at any time by notice in writing to the Chairman, resign his office.

(6) All communications and orders of the Board shall be issued by the Secretary or by such Officer subordinate to him as may be authorised by the Board in this behalf.

4. *Powers of Government to direct preparation of schemes.*—The Government may, by order, direct the Board to prepare detailed plans and estimates for a scheme in respect of any area within a district.

5. *Functions of the Board.*—The functions of the Board shall be—

(a) to direct, either at its own instance or on the orders of the Government under section 4, the preparation

by the District Committees, of draft schemes within their respective jurisdiction;

(b) to consider and approve the draft schemes prepared by the District Committees;

(c) to devise ways and means for the speedy execution of schemes sanctioned by the Board or Government;

(d) to fix the physical and financial targets for each district; and

(e) to perform such other functions as may be specified in this Act or in the rules made thereunder.

6. *Constitution of District Committees.*—(1) The Government shall constitute for each district a District Land Development Committee consisting of—

(a) the Collector;

(b) an officer of the Government not below the rank of the District Agricultural Officer to be nominated by the Government (hereinafter referred to as the District Soil Conservation Officer);

(c) The Divisional Forest Officer or Officers having jurisdiction in the District;

(d) The Executive Engineer or Engineers in charge of Irrigation in the District; and

(e) Four non-officials to be nominated by the Government from that district.

(2) The Collector shall be the Chairman of the District Committee.

(3) The District Soil Conservation Officer shall be, *ex officio*, the Secretary to the District Committee.

(4) The term of office of the members referred to in clause (e) of sub-section (1) shall be three years:

Provided that the term of office of a member nominated to fill a casual vacancy shall be for the remainder of his predecessor's term of office.

(5) A non-official member may, at any time, by notice in writing to the Collector resign his office.

7. *Functions of the District Committee.*—The functions of the District Committee shall be—

(1) to make recommendations to the Board as to the area in the district for which schemes may be prepared;

(2) to prepare schemes for areas in the district on the direction of the Board;

(3) to perform such other functions pertaining to land development as may be specified in this Act or in the rules made thereunder;

(4) to execute the sanctioned schemes; and

(5) to carry out the instructions issued by the Board from time to time.

8. *Matters for which a scheme may provide.*—A scheme made under this Act may provide for all or any of the following matters, namely:—

(a) control and prevention of soil erosion;

(b) preservation and improvement of soil;

(c) reclamation of waste, saline or water-logged areas;

(d) improvement in the methods of cultivation and extension of cultivation;

(e) construction of earth and masonry works in fields, gullies and ravines including construction of catch water drains and contour bunding, wherever necessary;

(f) construction of permanent bunds in water logged lands for increasing agricultural production;

(g) regulation or prohibition of cutting down or destroying of trees and other growths; setting on fire of trees, timber, forest produce or other wild growths;

(h) planting or growing of trees, shrubs or grasses for the purpose of afforesting uncultivable land or for providing shelter belts against wind or sand or for any other purpose;

(i) control and maintenance of tree growth;

(j) improvement of water supply;

(k) consolidation of the holdings of cultivators in an area for the better use of land;

(l) training of canals, streams and rivers to prevent bank erosion; and

(m) such other matters not inconsistent with the objects of this Act, as may be prescribed.

9. *Preparation of schemes.*—(1) On receipt of an order from the Government under section 4, or if the Board is satisfied on the recommendation of the District Committee or otherwise, that it is necessary to do so, it shall direct the District Committee to prepare a draft scheme for the specified area in that district.

(2) On the receipt of a direction under sub-section (1), the District Committee shall prepare a draft scheme containing the following particulars:—

(a) the objects of the scheme;

(b) the boundaries and approximate area of the lands to be included in the scheme;

(c) the persons, including the Government, who will be affected by the scheme;

(d) the work to be carried out under the scheme;

(e) the agency or agencies through which the work shall be carried out; and

(f) such other particulars as may be prescribed.

(3) On preparation of the draft scheme the District Committee shall appoint an Officer called the Inquiring Officer, for the purposes hereinafter specified.

10. *Publication of scheme and inviting objections.*—(1) Copies of the draft scheme together with the connected maps and plans, if any, shall be made available by the Collector for inspection by the public, free of charge in every village and at the headquarters of the taluk, in which the lands included in the scheme are situated, at such places as he may direct.

(2) A general notice shall be published in two newspapers having circulation in the locality, as the Collector may direct—

(a) intimating that the draft scheme has been prepared and that copies thereof have been kept and may be inspected by the public, free of charge, at the places aforesaid;

(b) requiring all persons affected by the draft scheme who wish to make any objections to it or any part thereof to submit their objections in writing to the Inquiring Officer or to appear before him and state their objections within thirty days of the publication of the notice.

(3) Separate notices to the same effect shall also be served in the prescribed manner on all owners of the lands affected by the scheme.

11. *Report of the Inquiring Officer.*—The Inquiring Officer shall enquire into the objections received or recorded by him and submit them to the District Committee together with his report thereon and his recommendations, if any, for the modification of the draft scheme.

12. *Power of the Board and the Government to sanction scheme with or without modifications.*—(1) After considering the objections and the report and recommendations of the Inquiring Officer and any further report which the District Committee may require from him, the District Committee shall forward the scheme to the Board with its comments.

(2) The Board may sanction the scheme with or without modifications or reject the scheme and direct that in lieu

thereof a fresh scheme be prepared and submitted for sanction:

Provided that the Board shall submit the scheme to the Government for its orders:—

(a) where the owners of more than fifty per cent of the area of the lands included in the scheme, other than Government lands, have made objections to the draft scheme or part thereof; or

(b) where the draft scheme has been prepared in pursuance of an order of the Government under section 4.

(3) Where a draft scheme is submitted to the Government under sub-section (2), they may sanction the draft scheme with or without modifications or may reject it and direct that a fresh scheme be prepared and submitted for their approval.

(4) The scheme as sanctioned by the Board or the Government, as the case may be, under sub-section (2) or sub-section (3) shall be published by notification in the Gazette and such notification shall state at what place and time the scheme will be open to inspection of the public.

(5) The scheme shall come into force on and from the date of publication of the notification in the Gazette under sub-section (4).

13. *Appointment of Executing Officer.*—When a scheme comes into force the District Committee shall appoint an officer, not below the rank of a District Agricultural Officer, to execute the scheme.

14. *Power to enforce scheme.*—(1) Every owner of land included in the scheme shall pay the cost or part of the cost, as the case may be, of the work which under the scheme is carried out by the Government in his land at the cost or part of the cost of the owner.

(2) If the owner of any land included in the scheme desires to carry out himself, under technical guidance provided free by the Board, any works which under the scheme are to be carried out in his land, he shall give notice in writing to that effect to the District Committee within 15 days, or within such further time as may be allowed by the District Committee, of notification of the scheme, under sub-section (4) of section 12.

(3) On receipt of such notice the District Committee shall inform the owner of the land in which such works are to be carried out and fix a date before which the owner shall carry out the works.

(4) If such owner fails to carry out the work to the satisfaction of the District Committee before the date fixed or within such further time as may be allowed, or at any time intimates to the District Committee in writing his inability to do so, the District Committee may require the Executing Officer to carry out the work and recover the expenses incurred for the purpose from the owner in such manner as may be prescribed.

(5) Where the owner of any land included in the scheme is the Government, the Department of the Government which has the control or the management of such land or the Executing Officer, if so directed in this behalf by the District Committee, the Board or the Government, shall carry out the works which the Government as the owner of the land is liable to carry out under the scheme.

15. *Power of Government to carry out works under a scheme.*—(1) Notwithstanding anything contained in this Act, the Government may, in the case of any scheme which has come into force under sub-section (5) of section 12, direct either by order or by notification in the Gazette that any work under the scheme to be carried out by the owners of the lands, shall be carried out by the Government, with such alteration or modification as the Government deem necessary, and that the cost of such work shall be recovered in whole or in part from the owners of the lands included in the scheme in such proportion as the Government may fix having regard to the area or assessment, or both, of the lands included in the scheme.

(2) The cost directed to be recovered under sub-section (1) together with interest at such rates as the Government may determine, shall be recoverable from the owners concerned in such number of equated annual instalments payable on the date as may be prescribed:

Provided that where a person commits default in the payment of three consecutive instalments, the entire unpaid balance shall become immediately payable, unless otherwise ordered by the Government.

16. *Liability of persons whose lands are not included in the scheme to contribute.*—(1) If, in consequence of any work carried out under section 14 at the expense of the owner of any land under the scheme, any person (including the Government), other than the owner of the land in which the work is done, is or is likely, in the opinion of the District Committee, to be benefited by such work, such person shall pay, by way of contribution such amount, within such time and in such manner, as the District Committee may determine to the owner of the land if the work is carried out by him, or to the Government if the work is carried out by the Executing Officer:

Provided that, before any person is required to pay any such contribution, he shall be given a reasonable opportunity of making his representation, if any, in regard to the matter:

Provided further that the Government may, in such cases as they deem fit, waive in whole or in part their claim for contribution by any person in respect of any work carried out by the Government on lands owned by them.

(2) If default is made in the payment of such contribution within the time determined in that behalf in pursuance of sub-section (1), the Collector or any person authorised by him in this behalf shall recover the amount from him and shall pay the same to the owner.

17. *Reference to Court.*—(1) Any owner or other person liable to pay the expenses under section 14 or to contribute towards expenses under section 15, who objects to the amount of such liability may, by written application to the District Committee, stating the grounds on which objection is taken, require that the matter may be referred for the determination of the Court.

(2) The application shall be presented within a period of one month from the date of the order fixing the liability; but the District Committee may admit an application presented after the expiry of the said period if it is satisfied that the applicant had sufficient cause for not presenting it within the said period of one month.

The District Committee shall thereupon, cause a reference to be made to the Court by the Collector.

(3) The procedure laid down under the Kerala Land Acquisition Act, 1961 relating to references to Court under the said Act shall, as far as may be, apply to references to Court under this section.

Explanation.—"Court" in this section shall mean the District Court having jurisdiction over the whole or major portion of the area in which such work is carried out.

18. *Power to make, grant or advance loan.*—The Collector or any officer authorised by the Collector in this behalf may make a grant or advance a loan to any person for carrying out any work under any scheme on such terms and conditions as may be prescribed.

19. *Right of entry.*—For the purpose of preparing, sanctioning, inquiring into, or executing any scheme or for inspecting any work, any of the following officers or persons may, after giving such notice as may be prescribed, to the owner, enter upon, survey and mark out such land and do all such other acts as may be necessary for the purpose of preparing, inquiring into or executing any scheme or for the purpose of inspecting works already carried out, as the case may be, under a scheme:

(a) the Executing Officer;

(b) the Inquiring Officer;

(c) the Collector;

(d) the Chairman or any Member or Secretary of the Board or the District Committee;

(e) any Officer or person authorised by the Board or District Committee or by any of the Officers referred to in clauses (a), (b), (c) and (d).

20. *Records of rights and liabilities.*—(1) The Executing Officer shall, as soon as may be after the execution of the work, prepare a statement setting out—

(a) the names of the owners of the lands included in the scheme;

(b) a map and plan showing the situation, nature and dimensions of the said works;

(c) the cost thereof;

(d) the total amount to be recovered from the owners;

(e) the general rate per acre or per rupee of assessment per annum at which such amount is to be recovered from the owners;

(f) the periods within which such amount is to be recovered;

(g) in regard to each such work, the owner or owners liable to maintain and repair it, and the extent of the liability of each such owner;

(h) the rights, if any, of the owners or any of them as regards the use of any such works; and

(i) such other matters as may be prescribed.

(2) After a statement as aforesaid has been prepared, a notice shall be published in the manner prescribed intimating that a statement has been prepared and that it may be inspected at such places as may be specified in the notice.

(3) An appeal shall lie to the Collector within two months from the date of publication of the notice referred to in sub-section (2) in respect of any error which may have occurred in the preparation of the statement referred to in sub-section (1). If the Collector is satisfied that the error is real, he may revise the statement with a view to rectify such error. Whenever the statement is revised as aforesaid, notice shall be given of the fact of such revision in the prescribed manner.

21. *Obligation of owners of lands to maintain and repair the works.*—(1) Every person shown in the statement prepared under section 20 as liable to maintain and repair any work shall, to the satisfaction of the Collector, maintain and repair the work in his own land and in any other land in respect of which he is shown as liable in the said statement.

(2) If any such person fails to maintain or repair the work, the Collector shall issue notice to him to maintain or repair it within a period to be specified and, on his failure to comply with such direction within the time fixed by the Collector,

the Collector shall cause the work to be maintained or repaired and the expenses incurred thereby, shall be recovered from the owner and such other persons, if any, liable to contribute.

(3) Any dispute as to the amount to be recovered under sub-section (2) shall be decided by the Collector and his decision shall be final.

22. *Notification of areas and control over them.*—Whenever it appears that in any area it is desirable to provide for the conservation of sub-soil water or the prevention or mitigation of erosion of lands, the Government shall, by notification in the Gazette declare that area as a notified area for the purposes of this Act.

23. *Power to regulate, restrict or prohibit certain matters within the notified area.*—In respect of such area as notified in section 22 or part thereof, the Government may, by order published in the Gazette, regulate, restrict or prohibit—

(a) the clearing or breaking up of land or the cultivation of lands;

(b) the quarrying of stones or burning of lime;

(c) the cutting of trees and timber, collection, removal or subjection to any manufacturing process otherwise than as prescribed in clause (b), of any forest produce for the purpose;

(d) the setting on fire of trees, timber or forest produce;

(e) the admission, herding, pasturing or retention of cattle or any class or description of cattle; and

(f) the grant of permits to the inhabitants of towns and villages situated within the limits or in the vicinity of the areas specified in the order—

(i) to take any tree, timber or forest produce, for their own use; or

(ii) to pasture cattle; or

(iii) to erect buildings in such areas, and the production and return of such permits by such persons.

24. *Proclamation of order under section 23 and admission of claims for compensation.*—(1) Upon the publication of an order under section 23, the Collector shall cause to be published in every village or town in which any part of the area specified in such order is situated a proclamation in the language of the locality as provided in sub-section (2).

(2) The proclamation referred to in sub-section (1) shall contain the terms of the order and shall also require every person claiming any compensation in respect of any right, the exercise of which is restricted or prohibited by the order, to prefer his claim to the Collector with such particulars and within such period as may be prescribed.

(3) Any claim not preferred within the prescribed period shall be rejected:

Provided that the Collector may admit a claim after such period if he is satisfied that the claimant had sufficient cause for not preferring the claim within such period.

25. *Inquiries into claims and award of compensation.*—(1) The Collector shall proceed to inquire in the prescribed manner into every claim admitted under section 24.

(2) For the purpose of such inquiry the Collector shall exercise all or any of the powers of a civil court, for the trial of suits under the Code of Civil Procedure, 1908.

(3) The Collector shall after such enquiry make an award in writing with respect to each such claim, setting out therein the following particulars, namely:—

(i) the person making the claim;

(ii) the nature and extent of the right claimed;

(iii) the extent to which the claim is upheld;

(iv) the amount of compensation awarded and the persons to whom it is payable.

(4) The Collector shall give notice in the prescribed manner of his award to claimants or their representatives and to persons to whom compensation is payable.

26. *Method of awarding compensation.*—(1) In determining the amount of compensation the Collector shall be guided, so far as may be, by the provisions of the Kerala Land Acquisition Act, 1961 and as regards matters which cannot be dealt with under these provisions, by what is just and reasonable in the circumstances of each case.

(2) If in any case the exercise of any right is prohibited or restricted for a time only, compensations shall be awarded only in respect of the period during which the exercise of such right is so prohibited or restricted.

27. *Amount to be recoverable as arrears of land revenue.*—All amounts payable to, or recoverable by, the Government, the Board or the District Committee or any Officer of Government under this Act, shall be recoverable, in the same manner as arrears of land revenue.

28. *Permission to owners to increase rent on account of improvements effected.*—(1) Notwithstanding anything contained in the Kerala Land Reforms Act, 1963 or in any other law for the time being in force or in any contract, it shall be lawful for the owner of any land, included in a scheme as liable to carry out any work, to enhance the rent payable by a tenant holding under him, if such tenant is benefited by the work under the scheme and there has been increase in the yield of the holding. The enhancement of rent shall be in proportion to the increase in the yield and subject to such conditions as may be prescribed.

(2) The District Committee shall decide whether or not there has been any increase in yield and if there has been, the quantity of such increase and the extent to which the tenant has benefited thereby, and the decision of the District Committee shall be final.

29. *Certain Officers to be public servants.*—The Chairman and Members of the Board and District Committees and all officers and persons authorised or appointed under any of the provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

30. *Protection of persons acting in good faith, limitation of suits and prosecutions.*—(1) No suit or other proceeding shall lie against the Government or the Board or a District Committee for any act done or purporting to be done under this Act or any rule made thereunder.

(2) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.

(3) No suit or prosecution shall be instituted against any public servant or person duly authorised under this Act in respect of anything done or intended to be done under this Act unless the suit or prosecution has been instituted within six months from the date of the act complained of.

31. *Vacancies amongst members or defect in the constitution not to invalidate proceedings of the Board or Committee.*—No proceedings of the Board or a District Committee shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

32. *Schemes relating to areas lying in more than one district.*—(1) Notwithstanding anything contained in this Act, it shall be competent for the Government or the Board to sanction the preparation of a scheme in respect of areas lying in more than one district.

(2) While issuing the sanction or at any time thereafter, the Government or the Board, as the case may be, may direct the District Committee within whose jurisdiction the major portion of such area lies, to prepare a draft scheme containing the particulars specified in sub-section (2) of section 9.

(3) The District Committee so directed shall prepare a draft scheme as if the same relates to areas entirely within its jurisdiction and thereafter the provisions of this Act and the rules made thereunder shall, so far as may be, apply in respect of such scheme.

33. *Power to make rules.*—(1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this section shall be laid as soon as possible before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly make any modification in the rule, or decide that the rule should not be

issued, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

34. *Repeal.*—The Travancore-Cochin Land Development Act, 1950 (Act XXXVI of 1950), and the Madras Land Improvement Schemes (Contour Bunding and Contour Trenching Schemes) Act, 1949 (Act XXII of 1949) as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), are hereby repealed.

35. *Certain schemes etc. deemed to have been prepared under this Act and saving of work carried out under the Travancore-Cochin Land Development Act, 1950.*—(1) Any scheme prepared, any proceeding or action taken and anything done in pursuance of any agreement executed by any owner relating to soil conservation before the commencement of this Act, shall, notwithstanding anything to the contrary in such agreement, be deemed to have been prepared, taken or done under this Act by the Board and shall have effect accordingly, notwithstanding that it is inconsistent with this Act.

(2) Notwithstanding the repeal of the Travancore-Cochin Land Development Act, 1950, where any scheme has been prepared relating to soil conservation under the said Act, and any work, which a land owner is liable to carry out under the scheme, has been taken in hand or carried out by the Government or any officer subordinate to them in any land included in the scheme, then any work taken in hand may be completed, and the cost of any work so carried out, or completed, may be recovered under sub-section (3) of section 9 of the said Act from the land owner liable to execute such work, notwithstanding the fact that no notice as required under sub-section (2) of the said section 9 had been served on the owner, or that the owner had not failed to carry out the work.